

1 AMENDMENT TO HOUSE BILL 715

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 715 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The State Finance Act is amended by adding  
5 Section 5-595 as follows:

6 (30 ILCS 105/5.595)

7 Sec. 5.595. The Secretary of State Police DUI Fund.

8 Section 10. The Illinois Vehicle Code is amended by  
9 changing Section 11-501 as follows:

10 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

11 Sec. 11-501. Driving while under the influence of  
12 alcohol, other drug or drugs, intoxicating compound or  
13 compounds or any combination thereof.

14 (a) A person shall not drive or be in actual physical  
15 control of any vehicle within this State while:

16 (1) the alcohol concentration in the person's blood  
17 or breath is 0.08 or more based on the definition of  
18 blood and breath units in Section 11-501.2;

19 (2) under the influence of alcohol;

20 (3) under the influence of any intoxicating

1 compound or combination of intoxicating compounds to a  
2 degree that renders the person incapable of driving  
3 safely;

4 (4) under the influence of any other drug or  
5 combination of drugs to a degree that renders the person  
6 incapable of safely driving;

7 (5) under the combined influence of alcohol, other  
8 drug or drugs, or intoxicating compound or compounds to a  
9 degree that renders the person incapable of safely  
10 driving; or

11 (6) there is any amount of a drug, substance, or  
12 compound in the person's breath, blood, or urine  
13 resulting from the unlawful use or consumption of  
14 cannabis listed in the Cannabis Control Act, a controlled  
15 substance listed in the Illinois Controlled Substances  
16 Act, or an intoxicating compound listed in the Use of  
17 Intoxicating Compounds Act.

18 (b) The fact that any person charged with violating this  
19 Section is or has been legally entitled to use alcohol, other  
20 drug or drugs, or intoxicating compound or compounds, or any  
21 combination thereof, shall not constitute a defense against  
22 any charge of violating this Section.

23 (c) Except as provided under paragraphs (c-3), (c-4),  
24 and (d) of this Section, every person convicted of violating  
25 this Section or a similar provision of a local ordinance,  
26 shall be guilty of a Class A misdemeanor and, in addition to  
27 any other criminal or administrative action, for any second  
28 conviction of violating this Section or a similar provision  
29 of a law of another state or local ordinance committed within  
30 5 years of a previous violation of this Section or a similar  
31 provision of a local ordinance shall be mandatorily sentenced  
32 to a minimum of 5 days of imprisonment or assigned to a  
33 minimum of 30 days of community service as may be determined  
34 by the court. Every person convicted of violating this

1 Section or a similar provision of a local ordinance shall be  
2 subject to an additional mandatory minimum fine of \$500 and  
3 an additional mandatory 5 days of community service in a  
4 program benefiting children if the person committed a  
5 violation of paragraph (a) or a similar provision of a local  
6 ordinance while transporting a person under age 16. Every  
7 person convicted a second time for violating this Section or  
8 a similar provision of a local ordinance within 5 years of a  
9 previous violation of this Section or a similar provision of  
10 a law of another state or local ordinance shall be subject to  
11 an additional mandatory minimum fine of \$500 and an  
12 additional 10 days of mandatory community service in a  
13 program benefiting children if the current offense was  
14 committed while transporting a person under age 16. The  
15 imprisonment or assignment under this subsection shall not be  
16 subject to suspension nor shall the person be eligible for  
17 probation in order to reduce the sentence or assignment.

18 (c-1) (1) A person who violates this Section during a  
19 period in which his or her driving privileges are revoked  
20 or suspended, where the revocation or suspension was for  
21 a violation of this Section, Section 11-501.1, paragraph  
22 (b) of Section 11-401, or Section 9-3 of the Criminal  
23 Code of 1961 is guilty of a Class 4 felony.

24 (2) A person who violates this Section a third time  
25 during a period in which his or her driving privileges  
26 are revoked or suspended where the revocation or  
27 suspension was for a violation of this Section, Section  
28 11-501.1, paragraph (b) of Section 11-401, or Section 9-3  
29 of the Criminal Code of 1961 is guilty of a Class 3  
30 felony.

31 (3) A person who violates this Section a fourth or  
32 subsequent time during a period in which his or her  
33 driving privileges are revoked or suspended where the  
34 revocation or suspension was for a violation of this

1 Section, Section 11-501.1, paragraph (b) of Section  
2 11-401, or Section 9-3 of the Criminal Code of 1961 is  
3 guilty of a Class 2 felony.

4 (c-2) (Blank).

5 (c-3) Every person convicted of violating this Section  
6 or a similar provision of a local ordinance who had a child  
7 under age 16 in the vehicle at the time of the offense shall  
8 have his or her punishment under this Act enhanced by 2 days  
9 of imprisonment for a first offense, 10 days of imprisonment  
10 for a second offense, 30 days of imprisonment for a third  
11 offense, and 90 days of imprisonment for a fourth or  
12 subsequent offense, in addition to the fine and community  
13 service required under subsection (c) and the possible  
14 imprisonment required under subsection (d). The imprisonment  
15 or assignment under this subsection shall not be subject to  
16 suspension nor shall the person be eligible for probation in  
17 order to reduce the sentence or assignment.

18 (c-4) When a person is convicted of violating Section  
19 11-501 of this Code or a similar provision of a local  
20 ordinance, the following penalties apply when his or her  
21 blood, breath, or urine was .16 or more based on the  
22 definition of blood, breath, or urine units in Section  
23 11-501.2 or when that person is convicted of violating this  
24 Section while transporting a child under the age of 16:

25 (1) A person who is convicted of violating  
26 subsection (a) of Section 11-501 of this Code a first  
27 time, in addition to any other penalty that may be  
28 imposed under subsection (c), is subject to a mandatory  
29 minimum of 100 hours of community service and a minimum  
30 fine of \$500.

31 (2) A person who is convicted of violating  
32 subsection (a) of Section 11-501 of this Code a second  
33 time within 10 years, in addition to any other penalty  
34 that may be imposed under subsection (c), is subject to a

1 mandatory minimum of 2 days of imprisonment and a minimum  
2 fine of \$1,250.

3 (3) A person who is convicted of violating  
4 subsection (a) of Section 11-501 of this Code a third  
5 time within 20 years is guilty of a Class 4 felony and,  
6 in addition to any other penalty that may be imposed  
7 under subsection (c), is subject to a mandatory minimum  
8 of 90 days of imprisonment and a minimum fine of \$2,500.

9 (4) A person who is convicted of violating this  
10 subsection (c-4) a fourth or subsequent time is guilty of  
11 a Class 2 felony and, in addition to any other penalty  
12 that may be imposed under subsection (c), is not eligible  
13 for a sentence of probation or conditional discharge and  
14 is subject to a minimum fine of \$2,500.

15 (d) (1) Every person convicted of committing a violation  
16 of this Section shall be guilty of aggravated driving  
17 under the influence of alcohol, other drug or drugs, or  
18 intoxicating compound or compounds, or any combination  
19 thereof if:

20 (A) the person committed a violation of this  
21 Section, or a similar provision of a law of another  
22 state or a local ordinance when the cause of action  
23 is the same as or substantially similar to this  
24 Section, for the third or subsequent time;

25 (B) the person committed a violation of  
26 paragraph (a) while driving a school bus with  
27 children on board;

28 (C) the person in committing a violation of  
29 paragraph (a) was involved in a motor vehicle  
30 accident that resulted in great bodily harm or  
31 permanent disability or disfigurement to another,  
32 when the violation was a proximate cause of the  
33 injuries;

34 (D) the person committed a violation of

1 paragraph (a) for a second time and has been  
2 previously convicted of violating Section 9-3 of the  
3 Criminal Code of 1961 relating to reckless homicide  
4 in which the person was determined to have been  
5 under the influence of alcohol, other drug or drugs,  
6 or intoxicating compound or compounds as an element  
7 of the offense or the person has previously been  
8 convicted under subparagraph (C) of this paragraph  
9 (1); or

10 (E) the person, in committing a violation of  
11 paragraph (a) while driving at any speed in a school  
12 speed zone at a time when a speed limit of 20 miles  
13 per hour was in effect under subsection (a) of  
14 Section 11-605 of this Code, was involved in a motor  
15 vehicle accident that resulted in bodily harm, other  
16 than great bodily harm or permanent disability or  
17 disfigurement, to another person, when the violation  
18 of paragraph (a) was a proximate cause of the bodily  
19 harm.

20 (2) Aggravated driving under the influence of  
21 alcohol, other drug or drugs, or intoxicating compound or  
22 compounds, or any combination thereof is a Class 4  
23 felony. For a violation of subparagraph (C) of paragraph  
24 (1) of this subsection (d), the defendant, if sentenced  
25 to a term of imprisonment, shall be sentenced to not less  
26 than one year nor more than 12 years. For any  
27 prosecution under this subsection (d), a certified copy  
28 of the driving abstract of the defendant shall be  
29 admitted as proof of any prior conviction.

30 (e) After a finding of guilt and prior to any final  
31 sentencing, or an order for supervision, for an offense based  
32 upon an arrest for a violation of this Section or a similar  
33 provision of a local ordinance, individuals shall be required  
34 to undergo a professional evaluation to determine if an

1 alcohol, drug, or intoxicating compound abuse problem exists  
2 and the extent of the problem, and undergo the imposition of  
3 treatment as appropriate. Programs conducting these  
4 evaluations shall be licensed by the Department of Human  
5 Services. The cost of any professional evaluation shall be  
6 paid for by the individual required to undergo the  
7 professional evaluation.

8 (f) Every person found guilty of violating this Section,  
9 whose operation of a motor vehicle while in violation of this  
10 Section proximately caused any incident resulting in an  
11 appropriate emergency response, shall be liable for the  
12 expense of an emergency response as provided under Section  
13 5-5-3 of the Unified Code of Corrections.

14 (g) The Secretary of State shall revoke the driving  
15 privileges of any person convicted under this Section or a  
16 similar provision of a local ordinance.

17 (h) Every person sentenced under paragraph (2) or (3) of  
18 subsection (c-1) of this Section or subsection (d) of this  
19 Section and who receives a term of probation or conditional  
20 discharge shall be required to serve a minimum term of either  
21 60 days community service or 10 days of imprisonment as a  
22 condition of the probation or conditional discharge. This  
23 mandatory minimum term of imprisonment or assignment of  
24 community service shall not be suspended and shall not be  
25 subject to reduction by the court.

26 (i) The Secretary of State shall require the use of  
27 ignition interlock devices on all vehicles owned by an  
28 individual who has been convicted of a second or subsequent  
29 offense of this Section or a similar provision of a local  
30 ordinance. The Secretary shall establish by rule and  
31 regulation the procedures for certification and use of the  
32 interlock system.

33 (j) In addition to any other penalties and liabilities,  
34 a person who is found guilty of or pleads guilty to violating

1 this Section, including any person placed on court  
2 supervision for violating this Section, shall be fined \$100,  
3 payable to the circuit clerk, who shall distribute the money  
4 to the law enforcement agency that made the arrest. If the  
5 person has been previously convicted of violating this  
6 Section or a similar provision of a local ordinance, the fine  
7 shall be \$200. In the event that more than one agency is  
8 responsible for the arrest, the \$100 or \$200 shall be shared  
9 equally. Any moneys received by a law enforcement agency  
10 under this subsection (j) shall be used to purchase law  
11 enforcement equipment that will assist in the prevention of  
12 alcohol related criminal violence throughout the State. This  
13 shall include, but is not limited to, in-car video cameras,  
14 radar and laser speed detection devices, and alcohol breath  
15 testers. Any moneys received by the Department of State  
16 Police under this subsection (j) shall be deposited into the  
17 State Police DUI Fund and shall be used to purchase law  
18 enforcement equipment that will assist in the prevention of  
19 alcohol related criminal violence throughout the State.

20 (k) The Secretary of State Police DUI Fund is created as  
21 a special fund in the State treasury. All moneys received by  
22 the Secretary of State Police under subsection (j) of this  
23 Section shall be deposited into the Secretary of State Police  
24 DUI Fund and, subject to appropriation, shall be used to  
25 purchase law enforcement equipment to assist in the  
26 prevention of alcohol related criminal violence throughout  
27 the State.

28 (Source: P.A. 91-126, eff. 7-16-99; 91-357, eff. 7-29-99;  
29 91-692, eff. 4-13-00; 91-822, eff. 6-13-00; 92-248, eff.  
30 8-3-01; 92-418, eff. 8-17-01; 92-420, eff. 8-17-01; 92-429,  
31 eff. 1-1-02; 92-431, eff. 1-1-02; 92-651, eff. 7-11-02.)

32 Section 99. Effective date. This Act takes effect upon  
33 becoming law."